United Nations A/51/PV.77

General Assembly

Fifty-first Session

Official Records

77th plenary meeting
Monday, 9 December 1996, 3 p.m.
New York

President: Mr. Razali Ismail . . . . . (Malaysia)

In the absence of the President, Mr. Turnquest (Bahamas), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 24 *(continued)*

Law of the sea

(a) Law of the sea

(b) Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

(c) Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas; unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas; and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources

Reports of the Secretary-General (A/51/383, A/51/404, A/51/645)

Draft resolutions (A/51/L.21, A/51/L.28, A/51/L.29)

Mr. Zlenko (Ukraine): The United Nations Convention on the Law of the Sea established a comprehensive framework for the regulation of marine space, along with the accompanying rights, responsibilities and obligations of States. The entry into force of the Convention two years ago and the overwhelming support it now enjoys should be translated into its full and proper implementation. Much has been achieved in this regard, and this is reflected in the practice of States on maritime issues. However, much remains to be done at the national, regional and global levels.

After the successful conclusion of negotiations on part XI of the Agreement, indications are that the Convention represents one of the most widely accepted international instruments. We hope that in the near future the Convention will become truly universal in character. Its ratification is also on the agenda of the Ukrainian Parliament. Many of the Convention's provisions have already been reflected in appropriate national legislation concerning maritime matters. Some of the issues dealing with the continental shelf and exclusive maritime economic zones are also covered by article 13 of the Constitution of Ukraine, adopted on 28 June of this year, which, in particular, states clearly that:

> "the natural resources of Ukraine's continental shelf and the exclusive maritime economic zone are objects of the right of property of the Ukrainian people".

96-87028 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one month of the date of the meeting*, to the Chief of the Verbatim Reporting Service, Room C-178. Corrections will be issued after the end of the session in a consolidated corrigendum.

The annual global review and consideration by the General Assembly of matters relating to the law of the sea gives Member States an opportunity to express their views on current aspects of ocean affairs, especially those of particular importance to them.

Ukraine takes a particular interest in these matters. My country is a coastal State on two semi-enclosed seas, the Black Sea and the Sea of Azov, with a 2,782 kilometre coast, but it is also a geographically disadvantaged State under the terms of the Convention.

The fishing industry is a very important sector of our economy. Since the catch from coastal and inland waters does not meet the needs of our country's population, ocean fishing remains a very important source of nutriment. The main areas in which Ukrainian fishermen currently continue to operate are the central-east Atlantic, the south-east Atlantic, the Atlantic sector of Antarctica and the south-west Pacific. Ukraine also cooperates with the coastal States in those regions on issues of conservation and the rational utilization of living resources.

In recent years, we have witnessed the depletion of living resources in some parts of the oceans and new and increasing threats to the environment. In this regard, the protection of the marine environment and effective and balanced conservation should remain a high-priority item on the agenda of the international community.

Ukraine is participating actively in the joint efforts aimed at preserving the ocean environment and at maintaining and managing fish stocks. The delegation of Ukraine was actively involved in the work of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. Our country signed the relevant Agreement on the first day it was opened for signature. I hope that my country will ratify that document in the near future.

One of the principal elements on which the norms of the Convention are based is cooperation among States in the implementation of its provisions. The entry into force of the Convention has triggered new activities and the need for new areas of cooperation among States. Two new institutions created by the Convention have been established and made operational.

The International Seabed Authority has already held several sessions in Kingston, Jamaica. The deadlock in negotiations on the composition of the Authority's Council was successfully overcome, and the Council was elected. We would like to extend our congratulations to Ambassador Satya Nandan on his election as Secretary-General of the Authority. With the establishment of the Legal and Technical Commission and of the Finance Committee, the organizational phase has now been completed, and we hope that the Authority will soon begin its substantive work.

The election of the members of the International Tribunal for the Law of the Sea at the fifth Meeting of States Parties to the Convention is another important step aimed at facilitating a more active involvement and operation of the mechanisms for the settlement of disputes incorporated in the provisions of the Convention. The Tribunal will play an important role in settling disputes between States related to the seas and oceans and in facilitating effective implementation of the Convention, thus promoting the maintenance of an international legal order of the seas. Ukraine supports granting the Tribunal observer status in the General Assembly. Such status was granted to the International Seabed Authority on 24 October of this year. Both those institutions established by the Convention should have an essential link with the United Nations and its activities, since the problems of ocean space have a very closely interrelated nature.

The members of the Commission on the Limits of the Continental Shelf will be elected at the next Meeting of States Parties. The Commission is to play an important role in the establishment of the outer limits of the continental shelf of coastal States and will be responsible for studying data and other information submitted by coastal States regarding the outer limits of the continental shelf when the shelf extends beyond 200 nautical miles, as well as for providing appropriate recommendations.

The International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf are essential components in the global system for the rule of law in the oceans and in the maintenance of peace and security. At the same time, I should like to emphasize that the entry into force of the United Nations Convention on the Law of the Sea and the establishment of its institutions in no way diminishes the pivotal role the United Nations has always played in activities concerning the oceans.

The delegation of Ukraine would like to express its appreciation to the Secretary-General for his report on the Law of the Sea (A/51/645). The report represents the most comprehensive annual review of developments in maritime affairs throughout the United Nations system.

It clearly affirms that the Convention provides a solid basis for resolving peacefully and cooperatively all questions and disputes relating to the sea. It also provides a useful survey of developments relating to the Convention and of important measures being undertaken by the Division for Ocean Affairs and the Law of the Sea.

Over the years the Division has provided valuable assistance across the range of issues entrusted to it. We consider also that it should strengthen its capacity with a view to improving the coordination of United Nations activities and programmes in the area of maritime affairs. In our opinion, the United Nations should continue to play a key role in the monitoring of State practices and to report on the implementation of the new legal regime of oceans established by the Convention. To this end, the Division should be provided with sufficient resources and structured in a way that would enable it to meet the needs of the international community.

We also agree with the emphasis placed by paragraph 15 of the report on the importance of the "law of the sea" debate in the General Assembly, in relation not only to the development of the new treaty system of ocean institutions and the effective implementation of the Convention in all its aspects, but also for promoting international cooperation on important new issues in the field of the law of the sea and ocean affairs.

To this end, we wish to stress the importance of the technical and legal support provided to States by the United Nations to help them to implement the Convention at the national level. Ukraine, as a country with an economy in transition, relies on the Organization's helpful advice regarding the development of its national legislation on matters related to the law of the sea.

It has long been recognized by the international community that law of the sea issues are of primary political significance and importance. The world community has proved in the past its capacity to negotiate and resolve complex issues. This was demonstrated in particular in the negotiation of the Convention. It should not fail now to live up to high expectations.

For all these reasons, our delegation joined the sponsors of the draft resolution on the Law of the Sea (A/51/L.21), which was so eloquently introduced by the representative of New Zealand, Ms. Felicity Wong. The draft resolution reflects the continued commitment of Member States to the ideals and principles embodied in the Convention.

The consolidation of the legal regime that we have designed for the seas and oceans requires the joint efforts of all States in promoting cooperation and coordination. Ukraine will spare no effort in the achievement of this important and specific goal.

Mrs. Fernández de Gurmendi (Argentina) (*interpretation from Spanish*): This General Assembly debate is the culmination of a particularly fruitful year for the law of the sea. The Convention on the Law of the Sea received more than 100 ratifications this year, representing a wide spectrum of regions and interests. In this way the goal of universal acceptance of the law of the sea has almost been achieved. This is a noteworthy achievement for this broad, complex and multifaceted instrument, which has radically transformed the traditional law of the sea. The dream of an overall law on the oceans is an ancient one. Its translation into reality represents a clear and decisive contribution by the end of our century.

The Agreement on part XI — which entered into force on 28 July last — has undoubtedly played a fundamental role in the progress achieved towards universal acceptance of the Convention. That Agreement revised the regime on the exploitation of the seabed originally contained in the Convention, in the light of the major changes that have taken place in the political and economic spheres.

The year 1996 is of particular importance primarily because of the establishment and consolidation of the system of ocean institutions provided for in the Convention, which are essential components of the global system for ensuring the rule of law over the oceans.

The organs of the International Seabed Authority have been established: the Council was set up after an extensive and complex negotiating process; the Secretary-General was elected; and the Finance Committee and the Legal and Technical Commission were established.

The election of judges of the International Tribunal for the Law of the Sea, and its establishment in Hamburg last October, constitute another milestone of great significance. Only the Commission on the Limits of the Continental Shelf remains to be established. Elections for this body will be an important event for the next term.

Argentina, which participated actively in all the stages of the process that began with the Third United Nations Conference on the Law of the Sea, welcomes

these important advances made in consolidating the system. We would like to take this opportunity formally to express our congratulations and wishes for success to Mr. Satya Nandan, the Secretary-General of the Authority.

I cannot fail to mention that this year also saw the conclusion, on 4 December, of the signing period for the Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Argentina, which was among the first countries to sign the Agreement, hopes that it will quickly enter into force. That would allow for better management of the world's fishing resources now affected by overexploitation, lack of adequate regulation, the evasion of controls and, more generally, lack of sufficient cooperation on the part of States.

In the institutional system of the Convention, the United Nations has an important role to play because of the special functions of the Secretary-General under the Convention and the continuing role of the General Assembly in the ongoing review of the Convention as a whole and supervision of important developments relating to the law of the sea and ocean affairs.

Between the institutions created by the Convention and the United Nations, there is undoubtedly much scope for mutual interaction and cooperation. For that reason, Argentina welcomed the granting of observer status at the General Assembly to the International Seabed Authority and supports the granting of the same status to the International Tribunal for the Law of the Sea.

With regard to the fulfilment of its tasks by the United Nations, we welcome the quality of the reports submitted by the Secretary-General, and in particular the general annual report. The report provides useful information on trends relating to the law of the sea and on the many developments in ocean matters. As such, it makes a valuable contribution in transmitting information and promoting the uniform implementation of the Convention.

We also wish to express our appreciation for the activities of the Division for Ocean Affairs and the Law of the Sea, and in particular the assistance provided for the establishment of the institutions created under the Convention. We hope that the Division will be given sufficient human and financial resources to continue to carry out its work efficiently in the future.

In conclusion, I wish to state that my delegation, as in previous years, is pleased to co-sponsor and support the three draft resolutions before the Assembly on the law of the sea and the sustainable use and conservation of the living resources in the high seas.

Mr. Hasmy (Malaysia): My delegation wishes to thank the Secretary-General for his comprehensive and useful reports, contained in documents A/51/383, A/51/404 and A/51/645, pertaining to the law of the sea. As mentioned in document A/51/645, since the entry into force of the United Nations Convention on the Law of the Sea in 1994, the international community's attention has been focused largely on the establishment of the institutions the Convention has created and other institutional aspects, including the role of the General Assembly. The international community must forge ahead towards the implementation phase once all the relevant institutions of the Convention, such as the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf have been established.

My delegation welcomes the positive developments that took place during the second session of the Assembly of the International Seabed Authority this year. The compromise reached by member States at Kingston recently to accommodate the election of candidates to the 36-member Council is a laudable achievement. This, indeed, is testimony to the spirit of understanding and accommodation among member States. It reflects their commitment to the larger common interests of the international community rather than narrow national interests. My delegation wishes to congratulate all newly elected members of the Council, the Finance Committee and the Legal and Technical Commission. Malaysia was gratified to have been elected to the Council for a two-year term in Group 15 (e) and we look forward to playing an even more active role in the Seabed Authority. In addition, my delegation wishes to extend its warm congratulations to Ambassador Satya Nandan for his well-deserved election as the first Secretary-General of the Authority.

The International Tribunal for the Law of the Sea has also been constituted this year with the election of its 21 members. As is well known, the Tribunal is a specialized judicial institution dealing exclusively with law of the sea disputes. My delegation is gratified that the seats on the Tribunal have been fairly divided by taking into account the principles of representation of the main legal systems of the world and equitable

geographical distribution. My delegation is confident that, given their expertise and work experience, the 21 members elected to this important Tribunal will discharge their responsibility with a high degree of professionalism and competence, which is important in creating the confidence of member States vis-à-vis the Tribunal.

The establishment of this Tribunal and the election of its 21 members is an important aspect of the Convention which will contribute towards the future viability and strengthening of the Convention. However, without adequate, regular and reliable financial resources, the Tribunal will not be able to carry out its mandated task effectively. My delegation, therefore, urges all States parties to pay their assessed contributions in full and on time, as agreed by consensus at the fourth Meeting of States Parties from 4 to 8 March 1996. Failure to adhere strictly to this commitment would create yet another financial crisis and render the Tribunal dysfunctional.

My delegation notes that the first election of the 21 members to the Commission on the Limits of the Continental Shelf has been deferred to March 1997. Once that election has taken place, the Commission will then be in a position to facilitate the implementation of the Convention by providing technical and scientific advice to coastal States, on request, to enable them to establish the outer limits of the continental shelf beyond 200 miles from the baselines from which the breadth of the territorial sea is measured. Given the enormous and highly technical tasks that lie ahead and, more importantly, to ensure the credibility of this Commission, it is imperative that only persons who are experts in the fields of geology, geophysics and hydrography be elected to this Commission. Malaysia, which has not hitherto put forward a candidate for the Tribunal, the Finance Committee or the Legal and Technical Commission, is seriously considering presenting a candidate for election to the Commission.

Last year the international community witnessed the successful adoption of the Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. My delegation considers this Agreement an important vehicle to ensure long-term sustainability of rare fish stocks, while at the same time to promote the objective of their optimum utilization. We are gratified to note from the report contained in document A/51/383 that precautionary efforts are being taken by States and other organizations for the conservation, management and exploitation of these stocks in preserving the marine environment.

My delegation wishes to refer to the issues dealt with in document A/51/404, relating to large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction, and fisheries by-catch and discards. Malaysia is against the use of large-scale pelagic drift-net fishing. It therefore reiterates its support for a moratorium on large-scale drift-net fishing, as it is in the common interest of the international community to conserve the overexploited fish stocks caught by those practices. Unauthorized fishing in zones of national jurisdiction has been a long-standing problem faced by Malaysia, in particular the problem of encroachment of foreign fishing vessels on our exclusive economic zone.

This is obviously a threat to Malaysia's sustainable fisheries development, as well as to its food security. We therefore join others in seeking urgent international action on this issue. My delegation applauds efforts made by the Asia-Pacific Fishery Commission (APFIC) to encourage its members, through appropriate national institutes, to initiate assessments on the by-catch and discard issues. In showing our commitment to take appropriate regulatory steps on trawl net fishing, the Malaysia Fisheries Research Institute has undertaken a regional review of the by-catch and discards.

In the first 12 years, only 68 countries, mostly from the developing world, consented to be bound by the Convention. By November this year the number had grown to 109, by either ratification or accession, including Malaysia, which deposited its instrument of ratification of the Convention on 14 October 1996. It is encouraging to note that more and more of the developed countries have ratified the Convention since it entered into force on 16 November 1994. This encouraging trend would make it possible to achieve the goal of universal acceptance of the Convention, thereby contributing to the further development and consolidation of international law relating to the seas and oceans.

My delegation places particular importance on the implementation of the provisions relating to the prevention of pollution and dumping from ships. Malaysia has, in many instances, become the victim of illegal dumping of toxic wastes and sludge by irresponsible ships navigating through the Strait of Malacca. It is deplorable that the owners or operators of these ships choose to ignore their responsibility for observing the necessary pollution prevention measures, to the detriment of coastal States affected by this pollution. It is incumbent upon the owners of these ships, as well as upon flag States, to ensure full compliance with these

pollution prevention measures and to accept final responsibility. In this regard, therefore, my delegation welcomes the strengthened role of port State control as a policing mechanism for the shipping industry with the entry into force of chapter XI of the International Convention for the Safety of Life at Sea.

My delegation also welcomes the move by the International Maritime Organization (IMO) to consider the potential mechanisms by which user States and States bordering straits used for international navigation could facilitate the development of appropriate financial mechanisms for the establishment and maintenance of necessary navigational aids and other safety aids to navigation, as well as the prevention, reduction and control of pollution from ships.

Malaysia has voiced its serious concern with regard to the trans-shipment of radioactive materials through international waterways. In this regard, we support the efforts undertaken at the international level, such as those taken by the Commonwealth Ministerial Group on Small States in 1995, which have addressed the dangers of ships carrying nuclear and hazardous wastes through the busy sea lanes of small States. We also support the call by coastal States, including those of the South Pacific Forum, for full consultations on these trans-shipments.

On the broader issue of environmental pollution of the oceans, my delegation regrets that the reports have omitted to mention the effects of nuclear tests in the South Pacific, which, in the view of my delegation, are well within the purview of these reports. While these tests have since ceased — it is to be hoped forever — there is need for a full and proper scientific assessment of the immediate, medium and long-term effects of the nuclear tests on the marine ecosystem of the South Pacific. This is too important an issue to be ignored. It is hoped that future reports will include these findings.

Mr. Fernández Estigarribia (Paraguay) (*interpretation from Spanish*): Two years have elapsed since the entry into force of the United Nations Convention on the Law of the Sea. In the Convention's field, this represented the culmination of a multitude of efforts contributing to United Nations action aimed at the progressive development of international law.

My delegation wishes to express its satisfaction at the noteworthy progress achieved so far, including a substantial increase in the number of States parties, which has certainly benefited from the Agreement on Part XI of the Convention, and the organizational work to enable the International Seabed Authority to function.

The experience which the new bodies established under the Convention gain in the years to come will be an important contribution for future generations. This will lead to equitable participation in the exploitation of marine resources, as well as in the study and use of the oceans, regardless of States' proximity to the sea and despite the fact that geography has made access to the sea particularly difficult for some nations.

I wish to highlight here that the establishment of the International Tribunal for the Law of the Sea with its headquarters in Hamburg, which was agreed upon following intensive discussions at meetings of the States parties, will provide a forum for the peaceful settlement of disputes to which States and other entities can turn.

For Paraguay, as a country without a coastline, and in the context of the Convention on the Law of the Sea, adopted at Montego Bay, feels that the Agreement for the Implementation of the Provisions of the Convention Relating to Straddling Fish Stocks and Highly Migratory Fish Stocks, as well as the question of large-scale pelagic fishing and the effect that it has on the living marine resources in all oceans and seas of the world, are particularly significant. In this respect, the Government of Paraguay, through the specialized departments concerned, has been analysing very positively the possibility of becoming a party to that Agreement, which will do much to promote the conservation of living marine resources through responsible and intelligent fishing. We trust that once these internal procedures have been concluded, we will be able to sign this historic Convention.

As a landlocked country, Paraguay has demonstrated its faith in the principles which inspired the Convention on the Law of the Sea by ratifying it at the appropriate time. We will continue to show this faith, because we are aware of the importance of universal acceptance so that its lasting effect on the sea and on the sea's resources, which are the heritage of humankind, will benefit all peoples, now and in the future.

According to legend, the name of Paraguay comes from the river which cuts through it. Its waters eventually empty into the sea. Ancient peoples, many of whom now are members of the United Nations, would look at the sea and find wisdom in its depths. Young peoples such as my own cannot look at the sea, but they imagine it as serving

humankind, as a place for coming together, where we do not simply pass harmlessly by but gain in common awareness. In its wealth, we will find well-being and new directions to discover.

Mr. Pham Quang Vinh (Viet Nam): The delegation of Viet Nam accords great importance to agenda item 24, entitled "Law of the sea". Each year the General Assembly considers this question in plenary meeting, which provides a good opportunity for the international community to reflect on achievements already recorded in this important branch of international law, to make a necessary and objective assessment of the present situation, and to identify issues that remain to be further addressed. At the outset, my delegation expresses its appreciation to the Secretary-General for his comprehensive reports contained in documents A/51/645, A/51/404 and A/51/383.

1996 has been a year of significant importance for the branch of international law relating to the law of the sea. This year the international community has made great efforts on the path to implementing the United Nations Convention on the Law of the Sea, in particular by establishing the principal bodies of the International Seabed Authority — the Council, the Finance Committee and the Legal and Technical Commission — and electing the Secretary-General. The Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, which was adopted by the General Assembly in this Hall on 28 July 1994, has come into force. On 1 August 1996 the fifth Meeting of the States Parties to the Convention successfully elected the first 21 members of the International Tribunal for the Law of the Sea, and with this the Tribunal commenced its work.

It is necessary to stress that those achievements were made possible because of the efforts of the States parties to the Convention, through their pursuit of a constructive approach and their responsible commitment to implementing the Convention and to making it universal and effective. Viet Nam has been making an active contribution to this process. Apart from those achievements, we also note with satisfaction that in 1996 alone, nine more legal instruments relating to this field entered into force.

What has been achieved deserves the utmost welcome. The international community should further enhance its efforts and undertake concrete steps to support those newly established institutions. In this context, Viet Nam considers that cooperation between the United Nations and the International Seabed Authority is of great importance and in the interest of the entire international community. Viet Nam was, therefore, among the sponsors of the resolution by which the General Assembly decided to grant observer status to the International Seabed Authority.

The implementation of the United Nations Convention on the Law of the Sea requires that States be guided by the provisions and articles contained in the Convention, respecting both its letter and its spirit. The Convention makes it obligatory for States, among other things, to respect the sovereignty of coastal States, and their sovereign rights and jurisdiction over their continental shelf and exclusive economic zones, as provided for in the relevant articles of the Convention.

We are encouraged by the achievements and results recorded so far — especially those registered in 1996 — in the implementation of the Convention on the Law of the Sea. We believe that these achievements, particularly the establishment and effective operation of the principal bodies of the International Seabed Authority and the International Tribunal for the Law of the Sea, will establish the ground for good conduct in activities related to the sea. In their actions at both the global and regional level, States are required to abide strictly by the provisions of the Convention.

With regard to our region, it should be recalled that at the annual meeting held in Jakarta in July 1996, the Foreign Ministers of the countries of the Association of South-East Asian Nations (ASEAN) once again expressed their concern over the situation in the South China Sea. In this regard, the ASEAN Ministers stressed that several outstanding issues remain a major concern for ASEAN.

With regard to the declaration made on 15 May 1996 by the People's Republic of China regarding the establishment of baselines, we would like to reaffirm Viet Nam's position, which has been made public and circulated to all Members States in Depositary Notification of the Secretary-General C.N.238.1996.TREATIES-10, dated 9 September 1996, and is reflected in paragraph 35 of the report of the Secretary-General contained in document A/51/645. We further reaffirm Viet Nam's sovereignty over the Hoang Sa (Paracel) and Truong Sa (Spratly) archipelagos.

Viet Nam will continue its consistent policy of settling disputes through negotiation in the spirit of equality, mutual respect and understanding, with due respect to international law, particularly the United

Nations Convention on the Law of the Sea, and to the sovereign rights and jurisdiction of coastal States over their respective continental shelves and exclusive economic zones. The concerned parties should, while making active efforts to promote negotiation for a fundamental and long-term solution, maintain stability on the basis of the status quo, and refrain from any acts that may further complicate the situation and from the use of force or threat of force. This, in our view, is in conformity with the principles and norms of contemporary international law. It is also consonant with the aspirations of the peoples and serves peace and stability in the region.

Mr. Cassar (Malta): The importance of the United Nations Convention on the Law of the Sea stems not only from the legal norms that it outlines but also from the overall principle of the common heritage of humankind that inspired it and has since permeated other areas of relations within the international community. Malta takes particular pride in having launched the concept of the common heritage of humankind at the United Nations almost 30 years ago, soon after becoming a Member of this Organization.

A long-standing item on our agenda, this constitution of the oceans has brought about a quiet but effective revolution. It reflects the will and ability the world community to establish norms to regulate fields hitherto considered to be too complex, and thereby provide the means to prevent, pre-empt and resolve disputes. The importance of the Convention as a contribution to the maintenance of international peace and security cannot be overestimated. In a global community characterized by an increasing strain on resources and the impact of the use and abuse of rapidly evolving technologies on the environment, the nature of threats to peace and security has changed.

Heads of State and Government of Security Council members, at their historic meeting in January 1992, warned that

> "The absence of war and military conflicts amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters." (*S/PV.3046, p. 143*)

The Convention provides us with a tool to exploit and conserve the resources of the seabed and the subsoil thereof. It is a tool for the peaceful settlement of disputes in an area not lacking in competition. It is an instrument of cooperation among States in the interest of present and future generations.

The Convention entered into force on 16 November 1994 after a long and arduous process that saw detailed negotiations as complex as the nature of the subject matter it treated.

The United Nations Convention on the Law of the Sea covers an area unprecedented in terms of legal reach. It provides the keystone to further elaborate norms relative to specific sectors related to the ocean space and the subsoil thereof ranging from fish stocks to pollution.

The Secretary-General, in his report on the Law of the Sea, describes the entry into force of the Convention and the Agreement on Part XI in 1994 as landmarks in the establishment of the new ocean institutions. Both of these events occurred in what he describes as

> "a favourable environment for ensuring universal acceptance of the Convention". (*A/51/645, para. 9*)

The original parties to the Convention, including Malta, showed great flexibility during the negotiations leading to the Agreement on Part XI in order to ensure universality and the viability of the International Seabed Authority by allowing for its provisional membership. Two years after that landmark Agreement, which entered into force on 28 July 1996, universal ratification of the Convention on the Law of the Sea still evades us.

The setting up of the International Seabed Authority was a core development in the implementation of the Convention. More recently, the election of the judges and the inauguration of the International Tribunal for the Law of the Sea have again underlined the importance that the world community assigns to the areas covered by the Convention. The Convention continues to gain importance as agreements are negotiated further to define and regulate areas such as straddling and highly migratory fish stocks.

The entry into force of the Convention was the beginning, rather than the end, of a process.

The International Seabed Authority, as the depositary of the common heritage, is to act on behalf of

mankind as a whole, in which all rights on the resources of the area are vested. One of the unique features of the concept of common heritage is the built-in notion of institutional management. The preservation and elaboration of such a concept depends on the ability of such institutions to function effectively in the common interest of humankind. This framework within which the Authority's institutions are to function assumes particular importance as technological advances make exploitation more feasible. An awareness of the environmental impact surrounding such technological advances is an intrinsic aspect of our endeavour.

Addressing the University of Malta's Biological Symposium recently, my Deputy Prime Minister and Minister of Foreign Affairs and the Environment, Mr. George Vella, stated that, as regards security, Malta's Government considered the potential threats of an environmental nature that we are exposed to as being of extreme importance. He added that the threats to our security were now more of a non-military nature than otherwise — that they were environmental, economic and social threats.

This is a shared concern that bonds the international community. In this respect, the notion of the common heritage of mankind continues to inspire successive Maltese Governments, as the key to the realization of a solidarity among States that spans the interests of present and future generations through such international instruments as the United Nations Convention on the Law of the Sea — a solidarity that is best ensured through that universal acceptance of the Convention to which we still aspire.

Mr. Abdellah (Tunisia) (*interpretation from French*): Allow me at the outset to thank the Secretary-General for the detailed, comprehensive reports submitted to the Assembly under the item on the law of the sea.

In the report contained in document A/51/645, the Secretary-General describes the new developments that have occurred since the previous session with respect to the implementation of the Convention on the Law of the Sea as well as to the Division for Ocean Affairs and the Law of the Sea.

The report stresses that last year was very eventful, particularly regarding the establishment of the institutions established by the Convention. The election of the Secretary-General of the International Seabed Authority; the establishment of the Council and the subsidiary bodies of the Authority; and the establishment of the International Tribunal for the Law of the Sea were timely events in revitalizing a process that had been starting to lose steam. The delays registered in this area illustrate the complexity of this issue.

Following the entry into force of the Convention in November 1994, it took almost two years for the Council and the subsidiary bodies — the Finance Committee and the Legal and Technical Commission — to be established. With regard to the Council, it will be recalled that the principal difficulties encountered were related to the distribution of seats among the five regions. The developing countries in general and Africa, in particular — which still represent the largest number of accessions to the Convention — had stressed the need for proper representation of those countries in the Council, in accordance with the principle of equitable geographical distribution.

This applies also to the International Tribunal for the Law of the Sea, whose establishment was provided for by the Convention six months after the entry into force of the Convention itself. Elections to the Tribunal were deferred until 1 August 1996. The decision to defer these first elections was taken by the Meeting of the States Parties in order to enable the industrialized countries to join the ratifying countries, thus guaranteeing equitable geographical distribution as well as representation of the major legal systems within the Tribunal.

Tunisia, which attaches paramount importance to the peaceful settlement of disputes among States, welcomes the establishment of a new means of settlement. We wish to appeal for the extensive use by States parties of this institution, and, in this context, we draw the Assembly's attention to article 287 of the Convention. This article, which enumerates the various means of peaceful settlement of disputes relating to the Convention available to States, stipulates that the choice of procedure shall be made by means of a written declaration. To date, only 16 States parties have made such a declaration. Although the Convention does not impose any time constraints on States parties, it would be desirable for such a declaration to be made as soon as possible.

Now that these institutions have been established, they need to be given sufficient resources so that they can function properly. While we, like other delegations, share the current concern for economy, we are nonetheless convinced that this principle should not adversely affect the development of these newly created institutions by undermining their very foundations. The budget of the

International Seabed Authority for 1997 is now under consideration by the Fifth Committee. This budget should enable the Authority to recruit the staff it needs to get under way and thus to start substantive work. That is why we urge the General Assembly to approve the appropriations necessary to finance the administration of the Authority, in keeping with resolution 48/263. These appropriations could be taken from the contingency fund, as recommended by the Advisory Committee on Administrative and Budgetary Questions.

Furthermore, given the close link between these institutions and the United Nations, as well as the role played by the General Assembly in the area of the law of the sea, we welcome the fact that at this session the Authority was granted observer status in the General Assembly. We hope that the similar initiative under way to grant observer status to the International Tribunal for the Law of the Sea will achieve the same result.

To date, 109 countries have ratified the United Nations Convention on the Law of the Sea. While we note with satisfaction the increasing interest in the Convention, we note also that certain major industrialized countries, including maritime Powers, have still not ratified it. The goal of universal participation cannot be attained without their involvement. We strongly encourage those countries to ratify the Convention as soon as possible.

Ratifying the Convention is just the beginning; it still needs to be implemented, and countries need to harmonize their domestic legislation with its provisions. My country, since it ratified the Convention, has striven to achieve this goal by establishing a standing committee on the law of the sea responsible for harmonizing domestic legislation with the Convention.

The assistance of the Secretariat in the implementation of the Convention by the States is of overriding importance. I wish to take this opportunity to express to the Division for Ocean Affairs and the Law of the Sea my satisfaction with the high quality of the services provided, despite the Division's modest resources.

The Convention stipulates a number of obligations vis-à-vis Member States. In this regard, the report I mentioned earlier refers to the deposit with the Secretary-General of nautical charts or lists of geographical coordinates by coastal States, as well as the obligation to provide for their due publicity. The creation and updating of such charts requires investments and technical resources that developing countries often cannot afford. This is an area on which the United Nations should focus its efforts in order to provide the necessary assistance.

The Secretariat likewise plays a central role in collecting, centralizing and disseminating information. The publication of a new information circular on the law of the sea and the creation of an Internet home page are both welcome initiatives. The documents provided by the Secretariat to Member States are a valuable source of information for us. It is regrettable, however, to note the increasing delays in the publication in French of periodicals, studies and other documents.

The protection and conservation of the marine environment and fishing resources is a source of constant concern for my country. The flora and fauna of the Mediterranean, a semi-enclosed sea, are increasingly threatened by pollution whether land-based or due to navigation. That is why we welcomed with satisfaction the entry into force of the Convention, Part XII of which provides the general legal framework for the protection of the marine environment and the preservation of living marine resources. The adoption of Agenda 21; of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks; and of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, as well as the various additional activities undertaken by international organizations within the United Nations system, are all milestones along this road.

We believe that the General Assembly has an essential role to play in the conservation and sustainable use of marine resources, in particular in terms of guiding, monitoring and coordinating the programmes set up by the specialized organs and agencies.

Mr. Lavalle Valdés (Guatemala) (*interpretation from Spanish*): In his famous *Mare Liberum*, Hugo Grotius highlighted the immensity of the sea, calling it "*vastum et inmensum mare*". Of course, the sight of the sea has not lost its ability to inspire us as it once inspired him. And yet, since the entire world now sees itself as a village, and since we have sent spacecraft far beyond this village, the sea no longer seems so immense to us.

But the concept of immensity does put us in mind of something fundamental that barely existed in Grotius' era, which, from any standpoint, is indeed impressive in

its size. I refer here to all of the complex norms and international institutions that have been established to meet the increasingly urgent need for universal rules on all aspects of the use of the sea and the exploitation of its resources.

The comments I have just made were inspired by a passage in a paper that was published in 1950 by Roberto Ago. In that publication, the eminent judge, now deceased, noted that jurists taking up the study of international law for the first time were concerned by the fact that this system, unlike state law, was not divided into separate branches but had to be conceived of and studied as a whole.

It is well known that, except for a few very basic exceptions, this is no longer the case. We also know that this change is due — not exclusively, but to a great extent — to the revolution that is taking place in the law of the sea, to which I referred earlier. One aspect of this revolution is the increasingly interdisciplinary nature of the law of the sea, which is reflected in the fact that the General Assembly considers this issue in plenary and not through a Committee.

It is already a commonplace to hear the expression "the constitution for the oceans" used as a synonym for the United Nations Convention on the Law of the Sea. That expression, which was used in that sense by the final Chairman of the Conference that drafted the Convention, seems to us a very appropriate way of describing it.

In fact, as on the one hand, this Assembly has often stressed, the Convention on the Law of the Sea has an inherent mandate fully to manage the issues assigned to it. On the other hand, as I have already noted, the normative national and international corpus is enormous, as is the range of institutions that fulfil the provisions of the Convention.

While the Convention on the Law of the Sea is undoubtedly of constitutional stature, it is also subject and must adapt itself to a higher and broader constitution: the United Nations Charter, the constitution of the international community.

In order to understand the relationship between the Convention and the Charter, we need only recall that, as has been clearly stated in this Assembly, the Convention is of fundamental importance for the maintenance and strengthening of international peace and security, an issue of great concern to the authors of the Charter. We must also keep in mind that, according to the Charter, the United Nations must be

> "a centre for harmonizing the actions of nations in the attainment of these common ends",

including

> "solving international problems of an economic, social, cultural, or humanitarian character",

problems which also led to the adoption of the Convention on the Law of the Sea.

It is therefore natural and timely that since 1983, the year following the adoption of the Convention on the Law of the Sea, the General Assembly has annually requested the Secretary-General to report on events relating to the Convention. No less useful has been broadened scope of the reports requested by the General Assembly, in particular in view of the entry into force of the Convention, and that these extensive reports are now the rule. We are certain that the interest of Governments in the reports is shared by many public and private entities, as well as by individuals whose activities are related to the oceans.

We were pleased by the General Assembly's emphasis — at the beginning of the preambular part of resolution 50/23 on the law of the sea — of the universal character of the Convention on the Law of the Sea. We were also pleased that, in paragraph 1 of that resolution, the Assembly called on all States that had not done so to become parties to the Convention and to ratify, confirm formally or accede to the Agreement relating to the Implementation of Part XI.

In this regard, my delegation regrets the fact that there are States that have acceded to the Convention but not to the Agreement on Part XI. We feel that those States should carry out the necessary formalities in the very near future in order to put an end to this anomaly, which, while it does not impede their participation in the bodies of the International Seabed Authority, could no doubt create difficulties.

My delegation is pleased to state from this rostrum that the Congress of my country has approved Guatemala's participation in the Convention on the Law of the Sea. When the corresponding steps have been taken and the one-month delay provided for in the

Convention has elapsed, Guatemala will participate in the Convention and in the Agreement on Part XI.

The final substantive comments I wish to make refer to annexes VII and V to the Convention on the Law of the Sea. These annexes determine, respectively, the modalities for arbitration and for conciliation in the settlement of disputes over the interpretation or application of the Convention. These annexes contain provisions for the constitution of a list of arbitrators and of a conciliation commission. The members of both are to be appointed by States parties, each of which has the right to appoint up to four individuals for each list. In keeping with the annexes, the members of an arbitral tribunal or a conciliation commission must be appointed, in some cases by preference, in others mandatorily, from the list of arbitrators or conciliators, as the case may be.

Thus, the extreme brevity of the lists could prejudice the proper functioning of the dispute-settlement system, in particular when one or several members must be selected from the list for an arbitral tribunal or a conciliation commission.

According to paragraphs 49 and 50 of the Secretary-General's report (A/51/645), the list of arbitrators now includes only seven individuals and the list of conciliators two. We therefore feel that it is important for States that have not done so to make the necessary appointments, so that each list will contain an appropriate number of candidates.

In conclusion, my delegation wishes to thank the Secretary-General for his excellent reports. We would also express to the authors of the draft resolution before us our gratitude for their very useful and painstaking work.

Mr. Benitez Saenz (Uruguay) (*interpretation from Spanish*): For Uruguay, the item on the law of the sea, its conservation and the legal norms governing the rights and duties of States has always been of the highest priority in our foreign policy. Our geographic location, the importance of fishing to our economy and our firm and determined respect for international law led us to participate actively in the negotiations of the Third United Nations Conference on the Law of the Sea.

At a time when some would question the effectiveness of this Organization, one need only remind those who would discredit it that simply having parcelled out two thirds of the Earth on the basis of interests regulated by international law — as the United Nations did at its Third Conference on the Law of the Sea — is justification enough of the Organization's existence and constitutes an extraordinary achievement that will spare mankind many futile disputes and confrontations.

Of particular importance to Uruguay is the establishment of the International Tribunal on the Law of the Sea and the fact that, in accordance with article 287 of the Convention of the Law of the Sea, States agree upon signing the Convention to submit their disputes concerning the interpretation or application of the Convention to the jurisdiction of the Tribunal. We would also congratulate the judges recently elected.

As a member of a group of States with a continental shelf exceeding 200 nautical miles from the baseline, our country also continues to follow with interest the forthcoming elections of members to the Commission on the Limits of the Continental Shelf, which will be held in March 1997.

Within the International Seabed Authority, we have participated actively in the meetings of the Assembly of the Authority and are contributing a national candidate to participate on the Finance Committee. We consider reasonable the suggestion of the President of the Assembly to facilitate the integration of organs that have not yet been fully integrated by adopting a rotating mechanism for the elective posts, which have so far failed to ensure equitable geographic representation.

We also welcome the observer status recently granted to the International Seabed Authority and the election of the Secretary-General, Ambassador Nandan of Fiji.

We wish to express our thanks for the excellent work done by the Secretariat staff and technicians on the reports of the Secretary-General on this item and to highlight the role played by the Division for Ocean Affairs and the Law of the Sea in providing electronic data on this subject through the Internet. Improved dissemination of information on the law of the sea will ensure its improved and wider implementation.

My delegation also notes with interest the progress that has been made by various international bodies on organizing maritime routing systems and on provisions to keep vessels apart as a way of preventing pollution, in accordance with article 211 of the United Nations Convention on the Law of the Sea.

As regards the removal of flotsam or wrecks located beyond territorial seas, which is considered in the report and by the International Maritime Organization, we should point out that, in cases in which there is understood to be no express solution provided for in the Convention — since this is not an activity that compromises the freedom of transit of third States — such removal falls within the so-called residual rights of the coastal State.

As to the draft resolutions under consideration, we wish to thank the representative of New Zealand for her efforts to move negotiations along on that contained in document A/51/L.21, of which Uruguay is a sponsor.

We are also committed to the draft resolutions contained in documents A/51/L.28 and A/51/L.29 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and on unauthorized fishing in zones of national jurisdiction.

The depletion of species through illegal activity and unauthorized fishing in areas where coastal States themselves have set limits to conserve resources must be stopped and we will cooperate with the rest of the international community in applying existing norms or in drafting new standards that will put an end to these illegal activities.

Finally, we wish to highlight an issue that we feel should be the subject of the greatest concern to the United Nations and other international organizations: the shipment of radioactive material and atomic waste.

We cannot accept that such lethal cargo should be transported near our coasts on the basis of the freedom of navigation on the high seas. The fishing resources under our jurisdiction and the marine currents that flow freely, influenced only by nature, are not aware of the limits imposed by humankind. In the event of an accident on the high seas, many States would be affected immediately by the activities of these States, which should be guided in this area by the international community. We are prepared to contribute in every way to ensure that this situation does not continue.

Mr. Mwakawago (United Republic of Tanzania): It is my honour to participate once again in the debate on this important agenda item on the law of the sea at a time when the international community is engaged in the implementation of the United Nations Convention on the Law of the Sea of 1982, which entered into force two years ago, and of the 1994 Agreement relating to the Implementation of Part XI of the Convention, which also entered into force in July this year.

The report of the Secretary-General, contained in document A/51/645, has highlighted the efforts which have already been undertaken by the States parties and members of the International Seabed Authority in the establishment of institutions provided for under the Convention. The election of the Secretary-General of the International Seabed Authority and the establishment of its Council, Legal and Technical Commission and Financial Committee have enabled the Authority to start implementing its mandate, as provided for under Part XI of the Convention.

My delegation is gratified that the International Tribunal for the Law of the Sea, whose judges were elected at the Meeting of States Parties last August, has also begun to build up its institutional capacity. Needless to say, the effectiveness of the Court will depend on the confidence member States place in it and their readiness to have recourse to it in the settlement of their disputes. This is why we urge member States to consider making written declarations, choosing from the means set out in article 287 of the Convention for the settlement of disputes concerning the interpretation or application of the Convention. Furthermore, it is our hope that member States will honour their financial responsibilities to enable the Tribunal effectively to establish its structures in this critical formative phase.

We hope that every effort will be made to formalize work for the establishment of the Commission on the Limits of the Continental Shelf at the next meeting, scheduled for March 1997.

It is clear that, if the Authority and its institutions are to work and to do so effectively, they will need our undivided political support and the requisite financial help. This is why my delegation wishes to express the hope that, as we render our support to that institution in a manner that will permit it to serve us efficiently, it will be possible to overcome the present differences in the financing levels and to reach agreement on its budget.

As the Authority becomes operational, it will need political support to bring it closer to the deliberative and decision-making organs of the United Nations. That support is important to ensure the international

community's greater appreciation of and involvement in the activities of the Authority, as well as to encourage those who have not joined the Convention and the implementation Agreement to do so. In this context, the granting of observer status to the International Seabed Authority and the International Tribunal for the Law of the Sea merits our unanimous support.

At this initial stage of the establishment of these new institutions, we can only express our satisfaction at the progress which has already been made. We call upon States parties to the Convention and members of the International Seabed Authority to continue to cooperate in breathing new life into these institutions. We would also like to commend the United Nations Secretary-General on the important role he has played in assisting Member States in the creation of these institutions.

In conclusion, my delegation would like to state that we support changing the name of the agenda item, "Law of the sea", to "Oceans and law of the sea" a title which broadly represents all the activities pertaining to the law of the sea and ocean affairs, including the preservation of the environment.

Mr. Surie (India): The oceans have always been and will remain eternally important to mankind. They provide a massive, relatively untapped resource base. They are critical to the sustenance of the global environment. The mystery of the oceans will require several generations to unravel. They will continue to provide a major challenge for technological and scientific advancement and to human endeavour in general.

The importance of the Convention on the Law of the Sea of 1982 has to be seen in that perspective. Its significance also lies in the manner in which that Convention has comprehensively revolutionized and democratized maritime relations among nations. We are thus particularly pleased that we now stand at a juncture where implementation of the far-reaching provisions of the Law of the Sea Convention can move forward in a practical way.

It is a matter of satisfaction to my delegation that the International Seabed Authority has been established, with its seat at Kingston, Jamaica. Its Council, too, has been constituted after long and arduous negotiations. Following the constitution of the Council, the Legal and Technical Commission and Finance Committee of the Authority are also in place. My delegation wishes to take this opportunity to place on record its appreciation for the untiring efforts of the first President of the Authority's Assembly, Ambassador Hashim Djalal of Indonesia, to bring about this successful outcome. We also wish to place on record our congratulations to Ambassador Satya Nandan for his unanimous election as the first Secretary-General of the Authority. He is assured of our full cooperation.

Yet another milestone has been attained with the establishment of the International Tribunal for the Law of the Sea. Following successful completion of the election process earlier this year, the Tribunal was formally inaugurated at Hamburg, Germany, in October. We congratulate Judge Thomas Mensah of Ghana for his election as the first President of the Tribunal. We welcome the appointment of Mr. G. K. Chitty as its first Registrar.

The constitution of the Commission on the Limits of the Continental Shelf in March of next year will complete the establishment of the new Convention bodies.

The effective functioning of those new institutions will depend greatly on the contributions of States parties as well as on the leadership within those institutions. My delegation will extend wholehearted cooperation to them in their functioning.

The 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks was yet another landmark in the implementation of the Convention on the Law of the Sea. In our view, the Agreement represents compromises between different interests, and its proper application is of importance for the conservation of resources and for enforcing the rights of the coastal States, while taking into account the interests of distant water-fishing nations.

While on this issue, I would like to refer briefly to some particular interests of my delegation. First, we believe that artisanal and small-scale — including subsistence — fisheries should be protected in view of their social, economic and cultural importance. Such fishery is essentially non-commercial. Secondly, as envisaged in articles 24 and 25 of the Agreement, technical and financial assistance for the development of fisheries in developing countries should be forthcoming. Lastly, while the implementation of the Agreement rests on the existence of regional fisheries organizations, it does not directly deal with a situation in which such

designated organizations are not yet in existence. In respect of the Indian Ocean, we would like to note that tuna is recognized to be the important highly migratory fish species and the coastal States bordering the Indian Ocean are committed to conserve, manage and protect it from indiscriminate fishing and the consequent depletion or eventual extinction of stocks. Institutional arrangements for the latter purpose are to be worked out.

I should now like to turn to the question of the continuing role of the United Nations in the law of the sea. The Convention of 1982 itself is specific on this issue. It recalls in its preamble that the problems of ocean space are closely interrelated and need to be considered as a whole. Further, in its article 319, the Secretary-General has been authorized to report to States parties on issues of a general nature that have arisen with respect to the Convention and to carry out certain administrative and procedural functions. In that context, we have received with appreciation the report of the Secretary-General contained in document A/51/645. The report was received very recently and we are still in the process of examining it.

In our view, the collection and dissemination of information on law of the sea matters is another important function that the United Nations Secretariat must continue to perform. We therefore welcome the opening of a home page on law of the sea matters. This will make information readily available to all Member States and to the international community at large.

In conclusion, I would like to reiterate that my delegation attaches great importance to all matters pertaining to the implementation of the Law of the Sea Convention of 1982. We will therefore continue to extend our full cooperation with a view to strengthening the new institutions that have recently been set up. We will continue to participate constructively and actively in all United Nations activities pertaining to the Law of the Sea Convention and related agreements.

Mr. Mahugu (Kenya): The 1982 Convention on the Law of the Sea is an important part of the global system of peace and security, of which the Charter of the United Nations is the foundation. The Convention represents the most comprehensive effort to deal with all aspects of the ocean space. Indeed, by exerting a dominant influence on the conduct of States, the Convention has had a profound political, economic and legal effect in marine-related matters and maritime practice.

Kenya attaches great importance to oceans and their resources. In 1989, it joined the now large and increasing number of countries which have ratified the Convention, thus underscoring the importance it has given the Convention. As a coastal State, Kenya is aware of its responsibilities and obligations in both the marine and maritime fields and has firmly embodied the provisions of the Convention in its national laws in a manner consistent with its commitments as a ratifying State.

My delegation is particularly delighted to be able to participate in the debate on this item, which provides an opportunity for States Members of the United Nations to review the progress achieved in implementing the provisions of the Convention, as well as other activities undertaken pursuant thereto. Indeed, the role of the General Assembly in this regard is central by virtue of the special responsibilities of the Secretary-General set forth in the Convention which, *inter alia*, calls on the General Assembly to monitor the implementation of the Convention and ensure continued international cooperation within the framework of the Convention. In its resolution 49/28 of 1994, the Assembly decided to undertake an annual review and evaluation of the implementation of the Convention and other developments relating to ocean affairs. The same resolution confirmed the role of the Assembly as the global institution having the competence to undertake such a review.

The importance of the present debate in the Assembly, which provides an excellent forum for much-needed global stock-taking and coordination, cannot be overemphasized. The Secretary-General has underlined this point in his report. We thank him for producing such a comprehensive report on the law of the sea, contained in document A/51/645, and other related reports on fisheries issues, which form a useful basis for this debate. As noted in the report, the oversight role of the General Assembly, as stressed in resolution 49/28, may be expected to assume greater significance yet with universal acceptance of the Convention drawing nearer. This will further be consolidated by the addition of the new law of the sea institutions to the wider group of international organizations responsible for various specialized aspects of ocean affairs.

Since the entry into force of the Convention on the Law of the Sea in November 1994, the international community has devoted its main attention to the creation of two core institutions: the International Seabed Authority and the International Tribunal for the Law of

the Sea. In the case of the Authority, this has involved the establishment and start-up of its organs, including the election of the Secretary-General and the setting-up of its secretariat, Assembly and Council and subsidiary bodies, in Kingston, Jamaica.

With the establishment of the International Tribunal for the Law of the Sea and the swearing-in of judges at the Tribunal's seat in Hamburg, Germany, a few weeks ago, the international community has entered a new era. Because maritime disputes can be a source of confrontation and conflict between States, the Tribunal has an important role to play in the building of an international society governed by the rule of law.

My delegation would like to thank the Jamaican and German authorities who have so generously supported the two bodies respectively. Another equally important body, the Commission on the Limits of the Continental Shelf, will be established in the coming year in conformity with the Convention and the decision taken by the Meeting of States Parties to the Convention late last year.

The many speakers who have preceded me have appropriately hailed these developments. My delegation welcomes both institutions, which are of fundamental importance to international peace and security, the peaceful settlement of disputes, the sustainable development of marine resources and the protection of the marine environment.

Kenya shares the legitimate concerns of many Member States regarding the need to minimize the operational costs of the institutions we have created and to adopt an evolutionary and cost-effective approach that takes into account the increasing financial difficulties of Governments in providing for institutional development at the international level. We believe, however, that it is crucial for the international community to provide these new institutions with sufficient resources to enable them to discharge their important functions.

Kenya remains unequivocally committed to seeking a permanent solution to the problem of poaching and other predacious and illegal fishing practices. During the last decade or so, pressure on the exclusive economic zone and high-seas fishing have rapidly grown to alarming proportions, leading to the overexploitation and depletion of these marine resources.

The Agreement on the conservation and management of straddling fish stocks and highly migratory fish stocks, adopted on 4 August 1995 by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, signaled the growing desire of Governments to improve global cooperation in this area. The Agreement provides for effective mechanisms for compliance with and enforcement of these measures and is a good basis for regional cooperation. In this regard, I would like to express the intention of my Government to become a party to the fish-stocks Agreement in the near future.

Let me conclude by expressing our hope that the high rate of acceptance of the Convention during the past two years will accelerate further so that the goal of universality may be achieved soon. We appeal to those States remaining outside, which are now in the minority, to give their full and concrete support by ratifying or acceding to the Convention at the earliest possible opportunity.

Finally, I have the pleasure of informing you that Kenya is co-sponsoring the draft resolution before us on the law of the sea.

Mr. Karev (Russian Federation) (*interpretation from Russian*): As a major maritime Power, Russia attaches great importance to problems of international maritime law and has actively participated at every stage of the efforts to improve cooperation among States in this area. In this connection, we welcome recent events that have allowed us to get down to practical work in the international organizations created under the 1982 United Nations Convention on the Law of the Sea. We believe that these organizations will act effectively to further strengthen the legal regime on the high seas; in the interests of mankind as a whole.

Russia views the 1982 Convention as a kind of encyclopedia of the law of the sea, which establishes a universal mechanism for cooperation and interaction among States on the high seas. In this connection, it is extremely important to insure universal accession to the Convention. We are taking active steps at the present time to ratify the Convention and the Agreement relating to the implementation of Part XI. We hope that the ratification process will be completed by our Parliament in the near future, at least by the end of the current session of the State Duma.

Moreover, intensive work is under way to improve national legislation with a view to bringing it into complete conformity with the obligations that we will be

assuming under the Convention. We have already adopted a federal law on the continental shelf of the Russian Federation. We are currently completing work on a law on the exclusive economic zone.

The Russian delegation notes with satisfaction that, following two years of discussion, the International Seabed Authority established under the Convention has managed to finalize its structures and begin its work. We are pleased that the financial costs for the functioning of the Authority have been somewhat reduced from those foreseen in the initial projections. However, the question of the ratio between the cost of the Authority's work and its effectiveness remains a priority for the Russian delegation. We intend to devote very careful attention to it in the future.

We also cannot fail to welcome the launching of another important body, the International Tribunal for the Law of the Sea. We trust that it will soon assume its rightful and important role in the system of peaceful settlement of disputes. The Russian Federation hopes that the high professional and personal qualities of the recently elected judges of the Tribunal will ensure their important contribution to the implementation of the key provisions of the Convention and to the development of the norms of the law of the sea.

We note with satisfaction the fact that the International Seabed Authority has been granted observer status in the General Assembly. We believe that a similar decision with regard to the International Tribunal for the Law of the Sea would be appropriate.

The 1982 Convention, although the most universal and extensive instrument on the law of the sea, nevertheless cannot fully reflect the growing concern of coastal States at the state of living marine resources, which often fall victim to uncontrolled and scientifically unsound harvesting on the high seas. In this connection, Russia welcomes the 1995 Agreement on the conservation and management of straddling fish stocks and highly migratory fish stocks, adopted at New York.

The Agreement was elaborated on the basis of the Convention and as an elaboration of it. It regulates the fishing industry beyond the limits of the exclusive economic zone and seeks to manage it on the basis of the new principle of responsible fishing on the high seas. It is an extremely important step towards the protection of the resources of the world's oceans and their conservation for future generations. We hope that States will show an interest in it and that it will enter into force soon.

I would also like to express the gratitude of the delegation of the Russian Federation for the detailed and very useful report submitted by the Secretary-General on this agenda item. It is only fair to praise the efforts of the staff of the Division for Ocean Affairs and the Law of the Sea and the office of the Under-Secretary-General for Legal Affairs, not only for the report, but also for their enormous, varied and very intensive work to insure that the many conferences that have taken place in recent years on law of the sea problems were productive.

In conclusion, allow me to say that our delegation supports the three draft resolutions introduced this morning by the representative of New Zealand.

The Acting President: We have heard the last speaker in the debate on this item.

We shall now proceed to consider draft resolutions A/51/L.21, A/51/L.28 and A/51/L.29.

I call on the representative of the Secretariat.

Mr. Perfiliev (Director, General Assembly Affairs Division): I should like to inform members that, should the General Assembly adopt draft resolution A/51/L.21, entitled "Law of the Sea", under the terms of that resolution the General Assembly would, first, approve the provision by the Secretary-General of such services as may be required for the two meetings of the International Seabed Authority to be held in 1997, from 17 to 28 March and from 18 to 19 August; and secondly, request the Secretary-General to convene the Meetings of States Parties to the Convention from 10 to 14 March and from 19 to 23 May 1997.

With respect to the associated conference-servicing costs for the meetings of the International Seabed Authority in the amount of $1,400,000, these have been addressed in the note by the Secretary-General, contained in document A/C.5/51/21, and in document A/C.5/51/22, entitled "Pattern of Conferences". As indicated in these documents, conference services can be provided from within the overall resources available under section 26(E) of the programme budget.

The Meetings of the States Parties to the Convention are already included in the calendar of conferences, contained in document A/51/32.

The Acting President: I shall now call on the representative of Turkey for an explanation of vote before the voting. May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mrs. Baykal (Turkey): Among the three draft resolutions before us, Turkey will vote against the draft resolution on the law of the sea, contained in document A/51/L.21. The reason for my delegation's negative vote is that some of the elements contained in the Convention on the Law of the Sea, which had prevented Turkey from approving the Convention, are still retained in this draft resolution. Turkey supports international efforts to establish a regime of the seas that is based on the principle of equity and is acceptable to all States.

However, the Convention does not make adequate provisions for special geographical situations and, consequently, is not able to establish an acceptable balance between conflicting interests. Furthermore, the Convention makes no provision for registering reservations on specific clauses. Although we agree with the Convention on its general intent and most of its provisions, we are unable to become a party to it because of these serious shortcomings. That being the case, we cannot support the draft resolution, which provides that States should harmonize their national legislation with the provisions of the Convention of the Law of the Sea and ensure the consistent application of those provisions.

The Acting President: We have heard the only speaker in explanation of vote before the voting.

The Assembly will now take a decision on draft resolutions A/51/L.21, A/51/L.28 and A/51/L.29.

I call on the representative of Turkey.

Mrs. Baykal (Turkey): I need a point of clarification. We have asked for a recorded vote on draft resolution A/51/L.21. Will we first proceed with the vote on that draft resolution?

The Acting President: Yes. We will do that.

I should like to announce that since the introduction of the draft resolution, the following countries have become sponsors of draft resolution A/51/L.21: Antigua and Barbuda, Belize, Cape Verde, Chile, Côte d'Ivoire, Croatia, Cyprus, Grenada, Guinea-Bissau, Iceland, Japan, Malta, Mozambique, Namibia, Philippines, Sri Lanka, Sweden, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland and the United Republic of Tanzania.

I should like also to announce that since the introduction of the draft resolution, the following countries have become sponsors of draft resolution A/51/L.28: Argentina, Belize, Philippines, Samoa and Solomon Islands.

I should also like to announce that since the introduction of the draft resolution, the following countries have become sponsors of draft resolution A/51/L.29: Argentina, Belize, Philippines, Samoa, Singapore, Solomon Islands and Trinidad and Tobago.

We turn first to draft resolution A/51/L.21, entitled "Law of the Sea".

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Republic of Korea, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Solomon Islands, South Africa, Spain,

Sri Lanka, Sudan, Suriname, Sweden, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Viet Nam, Yemen, Zambia, Zimbabwe

Against:
Turkey

Abstaining:
Ecuador, Peru, Tajikistan, Venezuela

The draft resolution was adopted by 138 votes to 1, with 4 abstentions (resolution 51/34).

Subsequently, the delegations of Georgia and Tajikistan informed the Secretariat that they had intended to vote in favour.

The Acting President: We turn now to draft resolution A/51/L.28, entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

May I take it that the Assembly decides to adopt draft resolution A/51/L.28?

Draft resolution A/51/L.28 was adopted (resolution 51/35).

The Acting President: We next turn to draft resolution A/51/L.29, entitled "Large-scale pelagic drift-net fishing; unauthorized fishing in zones of national jurisdiction; and fisheries by-catch and discards".

May I take it that the Assembly decides to adopt draft resolution A/51/L.29?

Draft resolution A/51/L.29 was adopted (resolution 51/36).

The Acting President: Two representatives have requested to speak in exercise of the right of reply. May I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second intervention, and should be made by delegations from their seats.

I call on the representative of China.

Mr. Zhang Kening (China) (*interpretation from Chinese*): As the representative of Viet Nam, in his statement before the General Assembly today, touched upon the declaration issued by China on 15 May 1996 and mentioned the Xisha and Nansha Islands, which are in the territory of China, the Chinese delegation is compelled to speak yet again to state its position and correct any misapprehensions.

First, the Xisha and Nansha Islands are by no means ***res nullius***. Since time immemorial, they have been Chinese territory. China has always exercised indisputable sovereignty over the islands in the South China Sea and the adjacent waters, including the Xisha and Nansha Islands. This is based on full historical fact, including the longstanding development, management and jurisdiction by China over the islands in the South China Sea. This has also been recognized in a series of international documents and by national practices since the Second World War, including the practices and recognition of the Government of Viet Nam itself.

Secondly, the Chinese Government has consistently advocated a peaceful settlement of the disputes over the Nansha Islands with the countries concerned through bilateral negotiations; pending the settlement of the dispute, we should shelve our disputes in the search for common development. We believe that this is the most realistic and reliable means of handling the present disputes over the Nansha Islands, because it meets the interests of the countries concerned in this region. We are also receiving increasing understanding and support.

China is ready to work with the countries concerned in accordance with the established basic principles and legal regime, as contained in recognized international law and contemporary law of the sea — including the United Nations Convention on the Law of the Sea — to achieve an appropriate settlement of disputes through peaceful negotiations.

Thirdly, China opposes the attempt to internationalize the question of the Nansha Islands. It also opposes intervention in the question of the Nansha Islands by countries outside the region, because that would not be conducive to the settlement of the question, but would rather complicate the issue. We believe that parties to the dispute should abide by the norms concerning State-to-State relations in international law and the principles

governing the peaceful settlement of international disputes so as not to complicate or exacerbate the problem.

The Acting President: I now call on the representative of Viet Nam.

Mr. Nguyen Duy Chien (Viet Nam): We would like to reaffirm our position as follows: first, Viet Nam has indisputable sovereignty over the Hoang Sa and Truong Sa archipelagos. We possess adequate historical evidence, as well as legal grounds, to assert our sovereignty over these two archipelagos. Secondly, the establishment by China of the baselines around the Hoang Sa archipelago is a serious violation of Viet Nam's territorial sovereignty and runs counter to every international law.

Viet Nam once again reaffirms its sovereignty over both archipelagos and demands that countries respect Viet Nam's territorial sovereignty under international law. It is Viet Nam's consistent policy that, while efforts are being made to promote peaceful negotiations aimed at seeking a fundamental and durable solution to the dispute in the Eastern Sea, parties concerned should exercise some restraint and refrain from making the situation more complicated, thus affecting peace and stability in the region.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 24?

It was so decided.

The meeting rose at 5.20 p.m.